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activating the activatable modules as a function of the respective corresponding priority value of each of the activatable modules to provide activated modules;
with the activated modules, generating data by observing states of the system; and
continuously modifying the respective corresponding priority value of each of at least one of the activatable modules individually to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules.

REMARKS

Claims 1 to 20 are pending. The Applicants respectfully request reconsideration of the present application in view of the following remarks.

Claims 1, 3, 8, 9, 12, 14, 17 and 18 stand rejected under 35 U.S.C. § 102(a) as being anticipated by WO 97/13064 to Bergstrom et al. (the "Bergstrom reference").

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Machinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). In view of the foregoing authority, the Applicants respectfully submit that the cited reference fails to support the asserted rejection.

Independent claims 1, 8 and 12 have been amended as set forth above to emphasize advantageous features of the invention. In particular, claims 1, 8 and 12 now recite in relevant part: "... continuously modifying the respective corresponding priority value of each of at least one of the activatable modules individually to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules."

The Bergstrom reference fails to anticipate the claimed invention for at least the reason that it is completely silent as to the above-noted feature. It is appreciated that the Examiner has consistently maintained the position that Bergstrom teaches "a priority manager modifying the corresponding priority value" (Office Action dated 3/5/02, paragraphs 3 and 4; Office Action dated

4/10/01, paragraphs 3 and 4), but this is manifestly not the case. As support for his position, the Examiner cites page 8, lines 15-25 of Bergstrom. However, nothing in the cited passage can be construed as being equivalent to the above-noted feature required by the independent claims. The "DF scheduler" referred to in Bergstrom only "coordinate[s]" priority between evaluation routines; it does not modify the priorities of respective evaluation routines relative to the priorities of other evaluation routines. By contrast, as noted above, the independent claims of the present application call for modifying the respective corresponding priority value of an activatable module to increase or decrease its priority value relative to the priority value of another activatable module. The Bergstrom reference cannot meet this recitation.

As evidence that the Bergstrom reference does not call for modifying priorities as required by the independent claims of the present application, it is noted that, generally, "coordinating" (the verb used in the Bergstrom reference in the passage cited by the Examiner) means, for example, "to put in the same rank or order"; "to bring into common action, movement or condition; regulate and combine in harmonious action" (Webster's Third New International Dictionary). More specifically, the "coordinating" activity of the DF scheduler of the Bergstrom reference involves initially receiving requests to run evaluation routines and then deciding in which order these evaluation routines shall be performed. (Bergstrom reference, p. 14, ll. 18-21). The DF scheduler of the Bergstrom reference takes into account evaluated "fault" data signals, time elapsed and the relative priority between the evaluation routines. The DF scheduler of the Bergstrom reference retrieves these information from a scheduler table, where the scheduler table specifies the priority level associated with the evaluation routines including fault signals. (Bergstrom reference, p. 15, ll. 3-18). The priority level retrieved from the scheduler table is not modified by the DF Scheduler once retrieved by the DF scheduler. The Bergstrom clearly states that the scheduler table specifies the priority level of all evaluation routines dedicated to certain specified priority groups so that the DF scheduler module can determine which of the requested routines has priority within each priority group. (Bergstrom reference, p. 15, ll. 6-15). The DF scheduler is not described as modifying these priority values specified in the scheduler table. The DF scheduler merely retrieves these priority values from the scheduler table based upon the requests it receives. The DF scheduler of the Bergstrom reference takes into account any latest evaluated data and merely decides whether this evaluated data implies that certain

evaluation routines should be inhibited. The DF scheduler is not described as retrieving the latest evaluated data and then changing any priority values associated with the evaluation routines.

In contrast, as discussed in the present specification in connection with Fig. 2, for example, a priority manager of the present invention modifies (increases) the priority of one module, module A, relative to the priority of another module, module B. Likewise, the priority manager decreases the priority of module A relative to the priority of module B, as shown in Fig. 4 (T5).

Note is taken of Examiner's contention in paragraph 10 of the Office Action dated March 5, 2002, that "[t]here are other things considered that determine the final priority" in the Bergstrom reference, disclosed on page 15, lines 20-35. However, a careful review of this passage of Bergstrom reveals nothing involving **modifying priority** as called for in the present claims.

Accordingly, it is submitted that the Bergstrom reference does not disclose every feature recited in claims 1, 8 and 12, and therefore the Bergstrom reference does not anticipate claims 1, 8 and 12. Claim 3 depends from claim 1; claim 9 depends from claim 8; and claims 14, 17 and 18 depend from claim 12. Therefore, the Bergstrom reference does not anticipate claims 3, 9, 14, 17 and 18 for at least the same reasons as stated in regard to claims 1, 8 and 12. Accordingly, claims 1, 3, 8, 9, 12, 14, 17 and 18 stand allowable, and withdrawal of the rejection under 35 U.S.C. § 102(a) is requested.

Claims 2, 4, 13 and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over the Bergstrom reference in view of U.S. Patent No. 4,787,041 to Yount (the "Yount reference"). For a claim to be rejected for obviousness under 35 U.S.C. § 103, the prior art must teach or suggest each element of the claim, and it must also suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 ; and In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Claims 2 and 4 depend from claim 1. Claims 13 and 15 depend from claim 12. Accordingly, the arguments presented above in connection with claims 1 and 12 and the Bergstrom reference apply equally to claims 2, 4, 13 and 15. In addition, the Yount reference does not cure the deficiencies of the Bergstrom reference. Although the Yount reference suggests that an access problem is solved by a waiting period, there is no suggestion that priority values of modules are changed. Thus, for at least the same reasons as presented above in

connection with claims 1 and 12, the Bergstrom reference and the Yount reference, either individually or in combination, fail to render claims 2, 4, 13 and 15 obvious. Withdrawal of the rejection of claims 2, 4, 13 and 15 under 35 U.S.C. § 103(a) is therefore requested.

Claims 5, 6, 10, 11, 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious over the Bergstrom reference in view of U.S. Patent No. 4,653,003 to Kirstein (the "Kirstein reference"). Claims 5 and 6 depend from claim 1. Claims 10 and 11 depend from claim 8. Claims 19 and 20 depend from claim 12. Accordingly, the arguments presented above in connection with Bergstrom reference as applied against claims 1, 8 and 12 apply equally to claims 5, 6, 10, 11, 19 and 20. In addition, the Kirstein reference does not cure the deficiencies of the Bergstrom reference. The Kirstein reference simply does not address changing of priority values of modules. Thus, for at least the same reasons as presented above in connection with claims 1, 8 and 12, the Bergstrom reference and the Kirstein reference, either individually or in combination, fail to render claims 5, 6, 10, 11, 19 and 20 obvious. Withdrawal of the rejection of Claims 5, 6, 10, 11, 19 and 20 under 35 U.S.C. § 103(a) is therefore requested.

Claims 7 and 16 stand rejected under 35 U.S.C. § 103(a) as being obvious over the Bergstrom reference in view of U.S. Patent No. 5,563,452 to Kephart (the "Kephart reference"). Claims 7 and 16 depend from claims 1 and 12, respectively. Accordingly, the arguments presented above in connection with the Bergstrom reference as applied against claims 1 and 12 apply equally to claims 7 and 16. In addition, the Kephart reference does not cure the deficiencies of the Bergstrom reference. Although the Kephart reference discloses a radio module being activated depending on a preselected time, there is no suggestion regarding the changing of priority values. Thus, for at least the same reasons as presented above in connection with claims 1 and 12, the Bergstrom reference and the Kephart reference, either individually or in combination, fail to render claims 7 and 16 obvious. Withdrawal of the rejection of claims 7 and 16 under 35 U.S.C. § 103(a) is therefore requested.



Docket No. 10191/821
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CONCLUSION

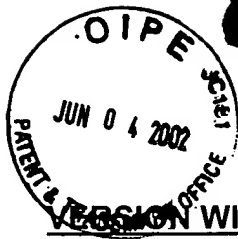
In light of the foregoing, the Applicants respectfully submit that all of the pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,
KENYON & KENYON

Dated: 5/16, 2002

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please amend the claims as follows:

1. (Three times amended) A control device for controlling a system, comprising:
 - a plurality of activatable modules, each of the activatable modules having a respective corresponding priority value;
 - a scheduler activating the activatable modules as a function of the respective corresponding priority value of each of the activatable modules to provide activated modules, the activated modules generating data by analyzing states of the system; and
 - a priority manager continuously modifying the respective corresponding priority value of each of at least one of the activatable modules individually to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules.

8. (Three times amended) A control device for controlling a system, comprising:
 - a plurality of activatable modules, each of the activatable modules having a respective corresponding priority value;
 - a scheduler activating the activatable modules as a function of the corresponding priority value of each of the activatable modules to provide activated modules, the activated modules generating data by analyzing states of the system; and
 - a priority manager continuously modifying the respective corresponding priority value of each of at least one of the activatable modules individually to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules; wherein the scheduler selects a first module having a highest priority for an activation, the first module being selected from a set of the activatable modules awaiting the activation, wherein the scheduler assembles a residual set of the activatable modules from the set of the activatable modules, the residual set excluding the first module and excluding second modules, the second modules being those

of the activatable modules which must not be activated simultaneously with the first module, and wherein the scheduler selects third modules from the residual set of the activatable modules for the activation.

12. (Three times amended) A method for operating a control device which controls a system, the control device including a plurality of activatable modules, the method comprising the steps of:
- assigning a respective corresponding priority value to each of the activatable modules;
 - activating the activatable modules as a function of the respective corresponding priority value of each of the activatable modules to provide activated modules;
 - with the activated modules, generating data by observing states of the system; and
 - continuously modifying the respective corresponding priority value of each of at least one of the activatable modules individually to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules.